

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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J & J SPORTS PRODUCTIONS, INC.

Plaintiff,

-against-

MEMORANDUM AND ORDER

11-CV-2144 (RRM)(MDG)

ROTI ON THE RUN, CORP., et ano.,

Defendants.

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ROSLYNN R. MAUSKOPF, United States District Judge.

By motion filed July 5, 2011, J&J Sports Productions, Inc. moved for default judgment against two defendants, Roti on the Run, Corp. d/b/a/ Roti on the Run (“Roti on the Run”), and Chief Samaif (“Samaif”) on claims relating to the unauthorized broadcast of a pay-per-view cable television broadcast in violation of 47 U.S.C. §§ 553 and 605. (Doc. No. 5.) On July 7, 2011, this Court referred that motion to the assigned Magistrate Judge, the Honorable Marilyn D. Go. On September 25, 2012, Judge Go issued a Report and Recommendation (the “R&R”) recommending that plaintiff’s motion be granted, and that judgment enter in favor of plaintiff and as against both defendants for damages and costs in the total amount of \$10,386.80.

Judge Go reminded the parties that, pursuant to Rule 72(b), objections to the R&R were to be filed on or before October 12, 2012. No party has filed any objections.

Pursuant to 28 U.S.C. § 636(b) and Federal Rule of Civil Procedure 72, the Court has reviewed the R&R for clear error. The Court finds none with respect to defendant Roti on the Run, and accordingly, the Court adopts the R&R in its entirety as to that corporate defendant. *See Covey v. Simonton*, 481 F. Supp. 2d 224, 226 (E.D.N.Y. 2007).

However, the Court finds clear error with respect to the magistrate judge’s recommendation with respect to defendant Samaif. The R&R is devoid of any discussion as to

Samaif's identify or what relationship, if any, s/he may have to Roti on the Run or the alleged unauthorized transmissions at issue. The Complaint initiating this action (Doc. No. 1), as well as the affidavits and other materials submitted by plaintiff in support of its request for default judgment (Doc Nos. 5, 6, 10), are also deficient in this regard. Other than passing references naming Samaif as a defendant, neither the Complaint nor the motion's supporting documents contain any allegations or facts whatsoever regarding Samaif – they do not allege that s/he had ownership, managerial or supervisory responsibilities with respect to the corporate defendant, or any other connection to the premises where the broadcasts were shown, nor does it assert that Samaif took any action with respect to the unauthorized transmissions at issue in this action. Individual liability requires that the individual authorize the underlying violations, and as such, plaintiff's allegations hardly suffice to establish liability against Samaif. *See, e.g., J&J Sports Prods. v. 291 Bar & Lounge, Inc.*, 648 F.Supp. 2d 469 (E.D.N.Y. 2009).

CONCLUSION

For these reasons, the Court hereby adopts only that part of the magistrate judge's R&R relating to defendant Roti on the Run. The Court ORDERS that default judgment enter in favor of plaintiff J & J Sports Productions, Inc. as against defendant Roti on the Run, Corp., d/b/a Roti on the Run, in the total amount of \$10,386.80, consisting of \$2,479.20 in damages, \$7,437.60 in enhanced damages, and \$470.00 in costs. The Court finds clear error with respect to that portion of the R&R relating to defendant Chief Samaif. As such, the Court FURTHER ORDERS that the Clerk of Court vacate the entry of default against Samaif and dismiss all claims against this individual.

The Clerk of Court shall enter judgment accordingly, mail a copy of this Order and the judgment to both defendants at the addresses below, and close the case.

Roti on the Run, Corp
d/b/a Roti on the Run
3140 Fulton Street
Brooklyn, NY 11208

Chief Samaif
189 Norwood Avenue, Fl. 2
Brooklyn, NY 11208

Chief Samaif
c/o Roti on the Run
3140 Fulton Street
Brooklyn, NY 11208

SO ORDERED.

Dated: Brooklyn, New York
October 15, 2012

Roslynn R. Mauskopf

ROSLYNN R. MAUSKOPF
United States District Judge